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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R2-ES-2016-0110; FXES11130900000 178 FF09E42000]

RIN 1018-BB79

Endangered and Threatened Wildlife and Plants; Removing the Black-Capped Vireo From the Federal List of Endangered and Threatened Wildlife; Availability of Post-delisting Monitoring Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft post-delisting monitoring (PDM) plan for the black-capped vireo (*Vireo atricapilla*). The draft PDM plan describes the methods we propose to monitor the status of the vireo and its habitat, in cooperation with the States of Texas and Oklahoma and other conservation partners, for a 12-year period if we remove this species from the Federal List of Endangered and Threatened Wildlife. The draft PDM plan also provides a strategy for identifying and responding to any future population declines or habitat loss. We are accepting comments on the draft PDM plan.

DATES: We will accept comments on the draft PDM plan for black-capped vireo until [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Document availability:* The draft PDM plan is available for review on the Internet at www.regulations.gov in Docket No. FWS–R2–ES–2016–0110 and at <http://endangered.fws.gov> and <https://www.fws.gov/southwest/es/ArlingtonTexas/>. To request a copy of the draft PDM plan, contact us at U.S. Fish and Wildlife Service, Arlington Ecological Services Field Office, 2005 NE Green Oaks Blvd, Suite 140, Arlington, TX 76006; telephone 817–277–1100; facsimile 817–277–1129; ARLES@fws.gov. Supporting documentation we used in preparing the draft PDM plan is available for public inspection, by appointment, during normal business hours, at the above office.

Comment submission: You may submit comments on the draft PDM plan by one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter FWS–R2–ES–2016–0110, which is the docket number for this rulemaking. Then, click on the Search button. You may submit a comment by clicking on “Comment Now!”

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2016–0110, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Request for Public Comments**, below, for more information).

FOR FURTHER INFORMATION CONTACT: Debra Bills, U.S. Fish and Wildlife Service, Arlington Ecological Services Field Office (see **ADDRESSES**). If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800/877-8339.

SUPPLEMENTARY INFORMATION:

Background

The black-capped vireo is an insectivorous songbird that breeds in Oklahoma, Texas, and northern Mexico, and winters along the western coastal states of Mexico. The vireo was listed as endangered under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 et seq.), in 1987, due primarily to nest parasitism by brown-headed cowbirds (*Molothrus ater*) and loss of habitat from urbanization, grazing, removal of vegetation for range improvement, and succession (52 FR 37420, October 6, 1987).

On December 15, 2016, we published a proposed rule to remove the black-capped vireo from the Federal List of Endangered and Threatened Wildlife (List) (81 FR 90762). Our proposed rule was based largely on the Species Status Assessment (SSA) Report, which characterized the overall species' viability in the future. In the SSA Report, the impact of brown-headed cowbird parasitism on certain locations was expressed in terms of sustainability and expansion of populations. Additionally, the black-capped vireo was identified as "conservation-reliant" due to successful recovery actions being implemented, largely cowbird management. In this document, we provide clarification to the information regarding cowbird management.

The Service believes cowbird management was a major factor leading to the recovery of the species, and the importance of cowbird management was discussed in the

SSA Report. Particularly, the black-capped vireo population in Oklahoma and localities in the eastern portion of the Texas range may be reliant on cowbird management periodically, or perpetually, to ensure minimal losses of current population numbers. In this regard, we assume the species may be “conservation reliant,” due to efforts necessary to retain healthy shrublands and reduce brown-headed cowbird parasitism under certain conditions in portions of the range. Based on the comprehensive information collected for the SSA Report, there is inherent uncertainty in forecasting future threats and population status scenarios over a 50-year timeframe. To address this uncertainty and ensure that the black-capped vireo continues to prosper, the SSA Report noted the importance of continued management of known populations of the species. To further this recommendation, the Service has obtained mutual commitments with many of our partners in the form of cooperative management agreements or other strategies to continue to manage known populations of the black-capped vireo and implement the PDM plan. These cooperative management agreements are included in the PDM plan, and provide assurances that PDM will detect trends in the black-capped vireo status and threats and the species’ biological status will continue to improve.

In addition, we have corrected errors in Table 14 of the SSA Report (page 105). This table presented the results of forecast scenarios under short- and long-term managed and unmanaged conditions from Table 13, which is correct. Among the corrections to Table 14 was the shifting of one “likely resilient locality” in the short-term worst-case scenario between recovery units, and identifying one less “manageable locality” in the long-term worst-case scenario. These corrections do not change the results of the SSA analysis. The SSA with the corrected table is included in the docket (FWS–R2–ES–

2016–0110) for the proposed rule on www.regulations.gov and can also be accessed at <https://www.fws.gov/southwest/es/ArlingtonTexas/>.

For more background information on the black-capped vireo, refer to our Black-capped Vireo Species Status Assessment (SSA) Report available in the docket (FWS–R2–ES–2016–0110) for the proposed rule on www.regulations.gov and also at <https://www.fws.gov/southwest/es/ArlingtonTexas/>.

The Act, section 4(g)(1), requires us to implement a system, in cooperation with the States, to effectively monitor the status of each species we remove from the Federal Lists of Endangered and Threatened Wildlife and Plants due to recovery. The monitoring must occur for at least 5 years. The PDM’s purpose is to verify that a species we delist due to recovery remains secure from risk of extinction after we remove the Act’s protections.

To fulfill the PDM requirement, we drafted a black-capped vireo monitoring plan in cooperation with the Texas Parks and Wildlife Department, Oklahoma Department of Wildlife Conservation, Fort Hood and Fort Sill Military Installations, and The Nature Conservancy of Texas. Over a 12-year period, we propose to monitor abundance trends at managed localities with known populations of greater than 30 adult male vireos, estimate population trends at 4 major localities, and monitor the residual threats of brown-headed cowbird parasitism, land use changes, and densities of livestock and deer.

Abundance monitoring would focus on known black-capped vireo localities under some form of management and for which the SSA Report forecasted future persistence. Through monitoring these localities, we can track abundance trends and compare those to the SSA Report forecasts. Additionally, four major localities with several years of

population trend data will continue to be monitored to detect changes in trends over the 12-year period. In conjunction with abundance monitoring, a subset of vireo nests will be monitored to determine brown-headed cowbird parasitism rates at these localities. The PDM plan defines monitoring thresholds which, if reached, may result in additional actions. The monitoring thresholds are based on maintaining resiliency, redundancy, and representation, as described in the black-capped vireo SSA Report. Land use trends, livestock, and deer within the vireo's range will also be monitored to ensure we detect changes that may affect the species.

The draft PDM plan includes both interim and final reporting requirements. If PDM results in a concern regarding the vireo's status or increasing threats, possible responses may include an extended or intensified monitoring effort, additional research, or an increased effort to improve habitat and reduce the threat. If future information collected from the PDM, or any other reliable source, indicates an increased likelihood that the species may become in danger of extinction, we will initiate a black-capped vireo status review and determine if re-listing the species is warranted.

In addition to public review of the draft PDM plan, we are requesting independent expert peer review from knowledgeable individuals with scientific expertise that includes knowledge of song bird ecology and conservation biology principles. Draft PDM plan peer review is in accordance with our policy "Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities," published on July 1, 1994 (59 FR 34270).

Viewing Documents

Comments and materials we receive from the public and peer reviewers, as well

as supporting documentation we used in preparing the draft PDM plan, will be available for public inspection by appointment, during normal business hours at the Arlington Ecological Services Field Office (see **ADDRESSES**) and on the Internet at www.regulations.gov in Docket No. FWS–R2–ES–2016–0110. Once approved, the final black-capped vireo PDM plan and any future PDM plan revisions will be available at www.regulations.gov and on our web page (<http://endangered.fws.gov>) and the Arlington Ecological Services Field Office web page (<https://www.fws.gov/southwest/es/ArlingtonTexas/>).

Request for Public Comments

We intend for our final PDM plan to be as accurate and as effective as possible. Therefore, we request comments or suggestions on this black-capped vireo draft PDM plan from the public, concerned governmental agencies, the scientific community, industry, or any other interested party. We will take into consideration substantive comments we receive by the comment due date (see **DATES**). These comments, and any additional information we receive, may lead us to develop a final PDM plan that differs from this draft PDM plan. If you have already submitted a comment in response to the proposed rule, the comment has been incorporated into the record for the rulemaking, is being considered, and does not need to be submitted again.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire document—including your personal identifying information—may be made publicly available at any time. While you may request at the top of your document that we withhold this information from public review, we cannot guarantee that we will be able to

do so.

Authors

The primary authors of this document are staff at the Arlington Ecological Services Field Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 7, 2018.

James W. Kurth

Deputy Director, U.S. Fish and Wildlife Service

Exercising the Authority of the Director,

U.S. Fish and Wildlife Service.

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